HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 25108 of 2006

DATED: 4-12-2006

Between:

Smt K.Veena

…Petitioner

and

The Chief Engineer, Govt. of A.P.,
NSR Projects at Gaganvihar,
Hyderabad and others

…Respondents.

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 21421 of 2006

ORAL ORDER:

The petitioner's lands are sought to be acquired by the issuance of a notification, dated 7-10-2006, under Section 4 (1) of the Land Acquisition Act, 1894 (for short 'the Act'). Urgency clause has been invoked under Section 17 (4) of the Act and enquiry under Section 5-A of the Act has been dispensed with mechanically without due application of mind, is the complaint.

The impugned notification states that the acquisition is for the purpose of digging canal by the Government of Andhra Pradesh. This requirement is not of such an emergent nature as would justify invocation of the urgency clause and dispensing with the enquiry under Section 5-A of the Act. The enquiry under Section 5-A of the Act is a salutary statutory provision intended for affording a reasonable opportunity to the owners of the lands to object to the acquisition on any relevant grounds as they wish to submit.

In the aforesaid circumstances, the decision in the impugned notification to invoke the urgency clause and dispensing with the enquiry under Section 5-A of the Act is declared irrational and unsustainable. The respondents are directed to issue notice to the petitioner for submission of objections, if any, to the proposal to

acquire the lands. On the petitioner's submitting her objections within the time stipulated in the notice, the same shall be considered and an appropriate decision taken duly communicating the decision to the petitioner simultaneously with the recommendations made after the enquiry under Section 5-A of the Act by the acquiring authority. The petitioner shall not be dispossessed pending communication of the decision to them consequent on the enquiry under Section 5-A of the Act.

The writ petition is disposed of as above at the stage of admission, after hearing the learned counsel for the petitioner and the learned Government pleader for Land Acquisition. There shall, however, be no order as to costs.

_____

GODA RAGHURAM, J

4-12-2006
GRR/IBL